

REMARKS

By the above actions a substitute specification has been presented along with a mark-up copy thereof from which the Examiner can confirm that no new matter has been added. No changes have been made to claims 10-21 except for purely editorial revision of claims 12-14, 18, 20, and 21, but two new claims 22 and 23 have been added. Reconsideration of the application is now requested for the following reasons.

With regard to the objections to the specification, all of the points raised by the Examiner and others have been addressed via substitute specification has been presented. Therefore, withdrawal of objection to the specification is in order and is requested.

Claims 10-21 were rejected under 35 USC § 103 as being unpatentable over the combined teachings of the Focke and Shoemaker et al. patents. This rejection is inappropriate for the following reasons.

Focke is the patent referenced in the specification of the present application as being a machine that the present invention seeks to solve a problem associated with its use of intermediate layers formed from a web of paper. In recognition of the fact that Focke does not disclose or suggest the applying of a non-skid coating on at least one surface of his intermediate layers, reliance is placed on the Shoemaker et al. patent, the teachings of which are imaginatively extrapolated by the Examiner. The Examiner's rejection, on the one hand, does not following from what one of ordinary skill would derive from the combined teachings of these two patents, and on the other hand, would not lead to the present invention even if the proposed modification and reasoning put forth by the Examiner were adopted, for the following reasons.

First, the Focke patent does not suggest the need for a non-skid coating or a benefit to be gained from a non-skid coating being applied to his paper intermediate layers. The Shoemaker et al. patent has no direct relevance to Focke's process and apparatus for loading of pallets in layers, but rather is directed to placemats and coasters for a table or serving counter on which glasses, cups and plates are to be placed. Moreover, the Shoemaker et al. patent adds nothing to what has already been acknowledged as being the state of the art; see, paragraph [0009] of the substitute specification ("Special intermediate layers have thus been developed which have their surface coated with a non-skid coating that, to a high degree counteracts, the said undesired sliding of the items in layers stacked on a pallet.").

However, the known use of intermediate layers presents the problems noted in paragraph [0010] of the substitute specification with regard to sticking. This sticking problem would not be resolved by use of non-skid layer of the Shoemaker et al. patent, and the Examiner's proposal to place a coating machine between the supply of sheet material and the pallet stacking area so that "coating designs could be successfully applied and dried prior to placement as an intermediate layer" does not follow from anything taught by either reference being based solely on hindsight utilization of applicant's own disclosure, and would not yield the present invention.

With regard to the latter mentioned point, claim 10 requires "applying a non-skid coating on at least one surface of the intermediate layer *during* said feeding step," i.e., when the free end of the rolled up supply of sheet material is fed "by feeding means across a table that includes a mechanical cutter unit." However, what the Examiner considers to be obvious would have to be completed (applied and dried) prior to feeding of the sheet material across the cutting table, not to mention the fact that the alternating oppositely angled rows of rectangular strips 13 that form the anti-skid pattern of the Shoemaker et al. patent could not be applied while the sheet material is being fed, unlike the anti-skid pattern of present invention in accordance with the present invention that is formed of stripes that "are formed extending in a lengthwise direction of the sheet layer" as set forth in new claim 22 by "being sprayed onto the sheet material as it fed onto the table" as set forth in new claim 23. Thus, applicant's apparatus has its means for dispensing the coating material where it can be applied to "the sheet material that has been drawn out over the cutter unit and passed over the cutting edge on the mechanical cutter unit" (claim 19) such as by having the feeding means for drawing out the free end of the length comprise "a number of interspaced, synchronously driven conveyor belts, and the dispenser unit for successive application of the non-skid coating includes a number of interspaced application nozzles disposed in at least one interspace between the conveyor belts" (claim 20).

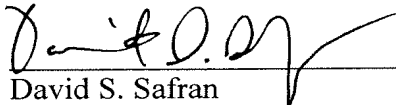
For the Examiner to contend that the claimed invention is merely an obvious design choice is absurd when there is absolutely no basis for such a conclusion in the cited references or even the general state of the art. Carried to its logical conclusion, the Examiner's assessment would mean that no matter how, where, or by what means a non-skid coating were to be applied to the intermediate layer forming sheet material of the

Focke patent, it could not be patentable since all such factors would only be matters of obvious design choice, which is clearly not the law. Thus, having established that the Examiner has failed in his attempt to establish a proper *prima facie* case as to the obviousness of the present invention, the § 103 rejection must be withdrawn and such action is hereby requested.

The Wollinsky reference that has been cited but not applied by the Examiner has been taken into consideration. However, since this reference was not found to be relevant enough by the Examiner to apply against the original claims, no detailed comments thereon are believed to be warranted at this time.

While this application should now be in condition for allowance, in the event that any issues should remain after consideration of this response which could be addressed through discussions with the undersigned, then the Examiner is requested to contact the undersigned by telephone for that purpose.

Respectfully submitted,


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